

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION AT CINCINNATI  
4 CIVIL ACTION NO. C-1-00-901

5 CLIFFORD STEVENS  
6 and  
7 CYNTHIA L. STEVENS,

PLAINTIFFS

8 VS.

DEPOSITION FOR DEFENDANTS

9  
10 BUILDERS SQUARE, INC., et al,

DEFENDANTS

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16 DEPONENT: CLIFFORD STEVENS

17 DATE: NOVEMBER 30, 2001

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22 MARY M. HOWE,

23 REPORTER.

24 FEE:

1 Q. Your impression was that you had two feet side  
2 by side on a single rung of the ladder?

3 A. Yes.

4 Q. While you were doing the gutter flushing?

5 A. Yes.

6 Q. About ten minutes goes by?

7 A. Yes.

8 Q. Where does your wife go during this period of  
9 time?

10 A. I believe she's still down below doing  
11 something. I wasn't keeping track of her.

12 Q. What happened next?

13 A. I told Clay to catch the hose and I let the hose  
14 go to him, and then I went up the ladder on the roof.

15 Q. Why?

16 A. I think it was the shortest path.

17 Q. To what?

18 A. To a point where I could get the ladder moved.  
19 I had reached everywhere I could reach and I wanted the ladder  
20 moved. I went up on the roof.

21 Q. Had you been on the roof before?

22 A. That day or --

23 Q. Anytime?

24 A. Oh, yeah, I had been on the roof before.

1 Q. You had been on the roof of this house before?

2 A. Yes.

3 Q. How did you access the roof?

4 A. There's a series of tiers on the other side of  
5 the house where you can go from roof to roof to get to that point.

6 Q. Why were you on the roof in the past?

7 A. Looking at the chimney when the contractors were  
8 finishing up on the chimney.

9 Q. Had you ever tried to clean the gutters from the  
10 roof?

11 A. No.

12 Q. Were you comfortable climbing the ladder the  
13 rest of the way and getting off on the roof?

14 A. Yeah.

15 Q. In other words, was that a comfortable maneuver  
16 for you to do from a safety standpoint?

17 A. I didn't have a problem with it.

18 Q. Do you know what the roof pitch is --

19 A. No.

20 Q. -- at the point that you got off the ladder?

21 A. No.

22 Q. What happened after you climbed the ladder the  
23 rest of the way and got on the roof?

24 A. I told the boys to move the ladder around to the

1 side of the house that you're referring to as the dining room,  
2 bedroom.

3 Q. Now, that means that the ladder goes from the  
4 roof line, that we see in Exhibit 4 in the hand-drawn diagram, to  
5 the roof line that we see in Exhibit 1 designated by the arrow?

6 A. Correct.

7 Q. And did the boys pick up the ladder so that it  
8 cleared the deck, so to speak, pick it up off the deck?

9 A. I'm assuming they had to, to move it, yeah.

10 Q. Well, I mean, they didn't slide it across the  
11 deck with the feet in contact with the deck?

12 A. I can't say, I wasn't down on the deck.

13 Q. Okay.

14 A. But they picked it up, to my knowledge, and  
15 moved it.

16 Q. Did they pick it up with it in contact with the  
17 gutter or did they put it back in the perpendicular position?

18 A. They stood it up.

19 Q. So they stood it back up so it was straight up  
20 and down?

21 A. Correct.

22 Q. And now they really do have to pick it up to  
23 move it, I think. And they're --

24 A. They're good size boys.

1 Q. Is it steeper or shallower?

2 A. Shallower.

3 Q. So you didn't, for example, sit down on the  
4 roof, scoot to the ladder and put your legs over the roof line onto  
5 the ladder rung?

6 A. No.

7 Q. You turned around with your back away from the  
8 roof and went down the ladder facing the gutter?

9 A. Yes.

10 Q. Which is the way that you got off of the ladder  
11 when it was leaning against the great room roof?

12 A. Yes.

13 Q. Was the ladder adjusted in length between  
14 position number one, against the great room gutter, and position  
15 number two, the bedroom gutter?

16 A. No.

17 Q. Why not?

18 A. Didn't have to be.

19 Q. There appears to be nearly -- well, more than  
20 two and a half feet difference between the great room gutter line  
21 and the bedroom gutter line; would you agree with that?

22 A. According to this drawing, yes.

23 Q. If that's true, then the amount of ladder that  
24 was above the gutter was significantly reduced compared to its first

1 Q. Do you know whether the boys extended the ladder  
2 to reach the taller roof of the bedroom?

3 A. I know they didn't, I watched them.

4 Q. Well, a few minutes ago I thought you told me  
5 that you didn't see them move the ladder?

6 A. That's not what I said.

7 Q. I'm sorry. Tell me what you saw about the boys  
8 moving the ladder from the great room gutter to the bedroom gutter?

9 A. Saw them stand up the ladder, saw them pick up  
10 the ladder and move it to that roof line.

11 Q. Then you saw them lean it against the gutter?

12 A. Yes.

13 Q. Did you see them extend it?

14 A. No.

15 Q. And do you say they didn't extend it because you  
16 didn't see it or because you know they didn't extend it?

17 A. I know they didn't.

18 Q. How do you know that?

19 A. I was watching them.

20 Q. So you never took your eyes off the ladder while  
21 you were walking the roof line from one roof to the other?

22 A. I didn't say I was walking it from one roof line  
23 to the other.

24 Q. You had to walk from one roof line to the other,

1 A. First time or the second time?

2 Q. Second time, at the bedroom roof?

3 A. Maybe chest high.

4 Q. Have you ever talked to the boys and quizzed  
5 them specifically about whether they lengthened the ladder?

6 A. No, why would I?

7 Q. Well, you fell. There's a reason.

8 A. Okay.

9 MR. BECKER: Let Mr. Tate ask the questions.

10 Q. But the answer is no?

11 A. No

12 MR. BECKER: If you could just simply answer the  
13 questions that he asks you.

14 Q. Conversely, have either of the boys ever said to  
15 you specifically about what they did or didn't do in adjusting the  
16 ladder at the second location?

17 A. No.

18 MR. BECKER: Off the record.

19

20 (Discussion off the record.)

21 Q. Now we're to the point where you are climbing  
22 onto the ladder from the bedroom roof, what happened as you did  
23 that?

24 A. Climbed on to the ladder, stepped down maybe

1 two, three rungs to get the gutter height right, looked over my  
2 shoulder and told Clay get ready to hand me the hose. The next  
3 thing I know the ladder was collapsing, telescoping down into  
4 itself.

5 Q. Let me pause there. Were you standing on a  
6 single rung or a double rung?

7 A. I have no idea. At that point, I have no idea.

8 Q. Did Clay move towards the hose?

9 A. Don't know. I wasn't watching him.

10 Q. But when you said to him get ready to pass me  
11 the hose, is it fair to assume that he had to let go of the ladder  
12 in order to get the hose?

13 A. I guess.

14 Q. Where is the hose that he has to get ready to  
15 pass up to you?

16 A. Right beside him.

17 Q. But on the deck?

18 A. On the deck right beside him.

19 Q. So he, as a practical matter, couldn't bend over  
20 and get the hose and maintain his position holding the ladder at the  
21 same time?

22 A. I don't know. I mean, the hose was right beside  
23 him.

24 Q. I know, but unless he managed to levitate it off